

A regular meeting of the Hickory Regional Planning Commission was held on Wednesday, May 23, 2012 at 6:00 p.m. in the City Council Chambers of the Julian G. Whitener Municipal Building, 76 North Center Street, Hickory, North Carolina.

Members Present: Randall Mays, Junior Hedrick, Sam Hunt, Barbara Clemons, Bill McBrayer, Robert Allen, Chip Blackwelder

Members excused: James Noggle, John Eldridge

Members absent: James Rogers, Wallace Johnson

Staff Present: Principal Planner Cal Overby, City Attorney John Crone, and Minutes Clerk Patty Williams

Chairman Mays called the meeting to order at 6:00 p.m.

Mr. Frazier called the roll and stated that a quorum was present.

Items of Correspondence

None

Update of City Council Action

None

Approval of Minutes

Dr. Allen moved, seconded by Mr. Blackwelder that the January 25, 2012 minutes be approved. The motion carried unanimously.

PRESENTATIONS AND PUBLIC HEARINGS

1. SUP 12-02. Request by Robbie Tidwell of All in Sweepstakes, LLC for a Special Use Permit for the establishment of an Electronic Gaming Operation (Internet Café / Sweepstakes) on property located within a Regional Commercial (C-3) zoning district. The property in question is located at 2107 Catawba Valley Boulevard SE, which is shown in more detail as PIN 3711-07-67-8641 on the Catawba County G.I.S. maps.

Chairman Mays opened the public hearing and all speakers were sworn in by the Minutes Clerk.

Mr. Overby presented the Staff report which was entered into the record as Exhibit A:

REQUESTED ACTION: The applicant requests a Special Use Permit for the establishment of an Electronic Gaming Establishment (Internet Café / Sweepstakes), in accordance with Article 6, Section 6.1 and 6.2.8 of Hickory's Land Development Code.

DEVELOPMENT POTENTIAL: The property is located in the Regional Commercial (C-3) District, and contains two (2) multi-tenant retail / service buildings. The applicant proposes to occupy one of the spaces in the larger of the two (2) buildings for the proposed business.

Properties zoned C-3 may be developed at a maximum floor area ratio (FAR) of 0.85, which equates into approximately 93,000 square feet of floor area. The buildings currently occupying the property were constructed in 2005, and together contain approximately 21,000 square feet of leasable area, which is 72,000 square feet less than the maximum area allowed.

LAND USE AND ZONING: (See Maps 1 and 2 which are attached.)

- **Subject Property:** The property is located in the Regional Commercial (C-3) District. The property is currently occupied by two (2) multi-tenant retail / service buildings, which together contain approximately 21,000 square feet of leasable area;
- **North:** The properties to the north are located in the Regional Commercial (C-3) District. These properties are occupied by Valley Hills Mall, the Valley Crossing Shopping Center and the Hickory Furniture Mart;
- **South:** The properties to the south, across Catawba Valley Boulevard SE, are located in the Regional Commercial (C-3) and Planned Development (PD) Districts. These properties are occupied by a movie theater (Carmike), an office building (People's Bank), and an apartment complex (The Legends) and some vacant commercial property;
- **East:** The properties to the east are located in the Regional Commercial (C-3) District. These properties are occupied by Valley Hills Mall and its outparcels; and
- **West:** The property to the west is located in the Regional Commercial (C-3) District. This property is occupied by the Hickory Furniture Mart and its overflow parking area.

ACCESS: Access to and from the property is from Catawba Valley Boulevard SE.

SEWER AND WATER: The property is currently served by both water and sewer.

SPECIAL USE PERMIT REVIEW CRITERIA

General Standards Land Development Code Section 2.4.5):

Special Use Permit applications may be approved by the Planning Commission only if it finds all the following criteria have been met:

- A. The proposed use is consistent with the *Hickory by Choice 2030 Comprehensive Plan and stated Purpose and Intent of the Land Development Code*;

The HBC 2030 Comprehensive Plan indicates the property is located within an area designated as Regional Commercial. The description and intent of such areas, as found within HBC 2030, is as follows:

- *Regional Commercial: Regional Commercial is currently focused on the I-40 / U.S. 70 corridor and this plan recommends the continuation of this development pattern. This corridor provides city residents, as well persons living in the surrounding community, with convenient access to larger regionally significant retail businesses. This area also provides businesses with locations that possess minimal potential for conflict with dissimilar, less intensive types of land-uses.*

The use of the property, or portion thereof, for the location of an Electronic Gaming Operation is consistent with the Regional Commercial designation, as it provides a convenient location for such a use in a heavy commercial setting, where conflicts between land-uses are minimized.

Section 1.7 of the Hickory Land Development Code contains its Stated Purpose and Intent. This section contains five (5) specific items which the Land Development Code is intended to uphold. These are as follows:

- Implement the Hickory by Choice 2030 Comprehensive Plan;
- Preserve and protect land, air, water and environmental resources and property values;
- Promote land use patterns that ensure efficiency in service provision as well as wise use of fiscal resource and governmental expenditures;
- Regulate the type and intensity of development; and
- Ensure protection from fire, flood and other dangers.

The application addresses these items in that, the property currently supports two (2) multi-tenant retail / service buildings, which are presently served by adequate public services, the type and intensity of the development are regulated, and adequate precautions are being taken to minimize the risk of fire, flood and other dangers. **(See Map 3 HBC 2030 Future Land Use, which is attached.)**

- B. The proposed use complies with all applicable provisions of the Land Development Code;

The intention of the applicant is to renovate a portion of the existing multi-tenant retail / service building into an area suitable for an Electronic Gaming Establishment. From initial assessment exterior modifications to the building, aside from new signage, will be minimal, as the building was constructed in 2005, is in like new condition and meets the City's zoning and development standards. Interior renovation plans will be reviewed to ensure such renovations comply with all relevant building and/or fire codes.

- C. The proposed use is compatible with adjacent uses in terms of scale, site design, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

The proposed use is located on a major transportation corridor (Catawba Valley Boulevard), and is adjacent to a number of large commercial uses. Its physical characteristics are viewed as being similar to those adjacent uses. From a compatibility standpoint, the proposed use is similar to those adjacent uses in terms of scale, site design and, operating characteristics.

- D. Any significant impacts on neighboring properties and/or the natural environment resulting from the use will be mitigated or offset;

The subject property is currently developed; no negative impacts from the re-occupancy of the existing space are anticipated. The applicant has not

provided any indication of expanding the current physical development on the property.

- E. The proposed use will not cause substantial diminution in value of other property in the neighborhood in which it is to be located;

The subject structure, for which the petition is being requested, was constructed in 2005. The buildings immediately adjacent to the subject property were constructed from the late 1980's to mid 2000's.

The structures currently occupying the subject property maintain tax values on par with others in the vicinity. Other properties in Hickory support Electronic Gaming Operations, and there has been no evidence produced that such uses devalue surrounding properties.

No information has been provided to indicate substantial diminution in value to other properties in the vicinity.

- F. Public safety, transportation, and utility services will be available to serve the subject property while maintaining sufficient levels of service for existing development;

The property is currently served by public water and sewer, and these services are not expected to fall below acceptable levels. Fire and Police protection are available to the site and are not anticipated to fall below acceptable levels.

- G. Adequate assurances of continuing maintenance have been provided;

The future operation of the proposed use must be maintained in conformance with all existing development standards, specifically Section 9.16, Property Maintenance, of the Hickory Land Development Code.

USE SPECIFIC CRITERIA AND REQUIREMENTS
(Land Development Code Section 6.2.8):

In addition to the Special Use Review Criteria outlined above, Electronic Gaming Operations are required to comply with a number of specific criteria, which are as follows:

- A. No more than twenty (20) machines / terminals / computer for gaming operations may be permitted per licensed location;

The applicant has been made aware of this limitation. Inspections will be conducted to ensure compliance is established and maintained.

- B. No portion of a zoning lot on which a gaming operation is located may be within one-thousand (1,000) feet of another Electronic Gaming Business, residential zoning district, child care center, religious institution, elementary school, middle school, high school, recreation center or park; and

Staff has verified, by means of G.I.S mapping, the proposed location complies with these separation standards.

- C. Gaming operations may only operate between the hours of 8:00 A.M. and 10:00 P.M.

The applicant has been made aware of this limitation. Inspections will be conducted to ensure compliance is established and maintained.

STAFF FINDINGS AND RECOMMENDED ACTION: Upon analysis, staff has found Special Use Permit Petition 12-02 meet each of the approval criteria laid out within Sections 2.4.5 and 6.2.8 of Hickory's Land Development Code, and recommends Special Use Permit 12-02 be approved. This recommendation is offered contingent upon the following conditions:

1. All aspects of the project, and its subsequent development, shall comply with all applicable provisions of the City's Land Development Code, Building Code, and Fire Code.
2. The operation of this facility must comply with all state and local regulations.
3. All signs and modifications of the building must be reviewed and permitted. This approval shall not be construed to give approval of signs or building modifications.
4. The operation of the facility will strictly comply with the standards contained within Section 6.2.8 of Hickory's Land Development Code, specifically with regards to number of machines / terminals within the facility and the hours of operation.

CITIZEN INPUT: As of May 15, 2012, staff has not received any inquiries regarding this petition.

PROPOSERS

None

OPPOSERS

None

The public hearing was closed.

Mr. Blackwelder moved, seconded by Mr. Hunt to approve Special Use Permit 12-02 and the foregoing Resolution. The following voted:

Mr. Hunt voted in favor because the applicant agreed to meet the criteria set for and based on the findings of facts.

Mr. Blackwelder voted in favor because it meets criteria and staff requirements.

Mr. Mays voted in favor because it falls in the category set forth by Hickory by Choice and the applicant will meet the four contingencies.

Mrs. Clemons voted in favor stating that the four conditions have been met.

Dr. Allen asked to abstain from voting. Mr. Mays explained that Dr. Allen is required to vote unless he has a conflict of interest. Members are voting on whether it meets the requirements. Dr. Allen voted in favor based on findings of fact as stated.

Mr. McBrayer voted in favor based on findings of facts as stated and because the four criteria have been met.

Mr. Hedrick voted in favor stating that it meets Land Development Code requirements and recommendations of staff.

The motion carried unanimously.

Other Business

None

There being no further business, the meeting was adjourned at 6:25 p.m.

Patty Williams, MMC, Minutes Clerk

Randall Mays, Chairman

Hickory Regional Planning Commission